

The 1st January, 1982

No. 9(1)81-6 Lab/14322.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Celestial Engineering Works (P) Ltd., Plt No. 44, Sector 4, Ballabgarh.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD

Reference No. 291 of 1980

between

Shri Phool Chand Workman and the Management of M/s Celestial Engineering Works (P) Ltd., Plot No. 44 Sector, 4, Ballabgarh.

Workman with Shri Parkash Bhargav.

Shri H.R. Dua for the Respondent Management.

AWARD

This reference No. 291 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana, — vide his order No. ID/FD/58-80/35929, dated 8th July, 1980, under section 10(i)c) of the Industrial Disputes Act, 1947, existing between Shri Phool Chand, workman and the management of M/s. Celestial Engineering Works (P) Ltd., Plot No. 44, Sector 4, Ballabgarh. The term of the reference was:—

Whether the termination of services/dismissal of Shri Phool Chand was justified and in order? If not, to what relief is he entitled?

After received this reference, notices were issued to the parties and the parties appeared and filed their pleadings. According to the demand notice and claim statement, the case of the workman is that he was appointed on 26th September, 1978 as a turner on a salary of Rs. 300 per month. The respondent terminated the services of the workman on 6th April, 1980 without any reason or notice. The said termination is illegal, unjustified and against the principles of natural justice and the workman is entitled for his reinstatement with full back wages and continuity of service. The termination is due to Trade Union activities of the workman.

According to the written statement of the respondent the case of the respondent is, that the workman was appointed on 26th September, 1978 and he was given warning letters of his not working properly on 1st August, 1979, 24th August, 1979, 4th September, 1979, 10th October, 1979 and after that the workman was charge-sheeted and suspended. After the suspension a domestic enquiry was constituted and an enquiry officer was appointed the workman participated in the enquiry proceedings and given all facilities which are required under the natural justice in the enquiry proceedings. The Enquiry Officer after holding the enquiry submitted his enquiry report to the respondent management. After considering the enquiry report and reply filed by the workman the respondent management took a lenient view even after the charges were proved and impose a lighter punishment of deduction four days wages for the days the workman did not give any out-put and continue the service of the workman after the conditions agreed upon by the workman and the respondent management, vide letter dated 26th December, 1979 on which the workman signed for this acceptance. The workman undertake to full-fill specific conditions, but the workman violated every one of these conditions and continued to effect low production and damage the machinery and tools. The respondent has denied that the workman was

terminated without any reason. The workman was terminated with the reason shown in the letter 6th April, 1980 so in these circumstances, the workman is not entitled to any relief.

On the pleadings of the parties, the following issues were framed :-

1. Whether regular and proper enquiry held by the respondent in this case. If so, what effect ?
2. Whether the termination of service of the workman is proper, justified and in order? If not, to what relief is he entitled ?
3. Relief ?

According to the orders of my predecessor, the issue No. 1 to be treated as preliminary and decided first. My findings on issues is as under :-

Issue No. 1:

On this issue the representative of the respondent argued that after warning letter from 1st March, 1979 to 10th October, 1979, *vide* Ex. M-22 to Ex. M-25, which are admitted by the representative of the workman, the respondent management issued letter dated 2nd November, 1979 which is Ex. M-1 as admitted by the workman for suspension of the workman and for giving the reply. The workman replied the same on 4th November, 1979 which is Ex. M-2 in which he has asked to the respondent to give a Hindi copy to the workman. The workman received another letter for reply dated 5th November, 1979 which is Ex. M-3 for which the workman replied, *vide* Ex. M-4 on 10th November, 1979. The Hindi copies were given to the workman and he replied the same to the management and after considering the reply of the workman, the enquiry officer was appointed, *vide* Ex. M-7 and the Enquiry Officer conducted the enquiry, according to enquiry proceedings which are Ex. M-9. In the enquiry proceedings the workman was given full opportunity and the workman participated in the enquiry proceedings. After this enquiry the enquiry officer submitted his enquiry report which is Ex. M-10. After considering the enquiry report of the enquiry officer, and other circumstances of the factory the respondent took the lenient view and deducted four days wages on which the workman has not given out-put, and according to Ex. M-11, the workman was given another chance on his undertaking to fulfil six specific conditions which are shown in the letter Ex. M-11 dated 26th December, 1979, but the workman violated everyone of these conditions and continued to effect low production and damage the machinery and tools of the factory for which the respondent issued the warning letter dated 11th January, 1980 which is Ex. M-16 and the workman has admitted the same, and after these warning the respondent issued a final warning letter dated 28th March, 1980 which is Ex. M-12. The Hindi copy of the same was also supplied to the workman which is Ex. M-14 and after this final warning and after considering the work of the workman, the respondent management issued letter Ex. M-13 dated 6th April, 1980 for the termination of the workman. The workman had raised no objection at the time of enquiry proceedings or in his demand notice rather the workman had concealed this fact of domestic enquiry in his demand notice. He has not mentioned anywhere in the demand notice or claim statement that there was any such domestic enquiry was held against him or the domestic enquiry was not proper and not in order. The workman and his representative had stated nothing about the domestic enquiry even in their statement as WW-1. The workman applied in this court for additional evidence which was granted to him and the workman came second time in the witness box and he has raised no objection about the enquiry. So the enquiry was regular and proper and even after the enquiry and the charges were proved against the workman, the respondent management gave another opportunity to the workman to improve himself in the working, but the workman failed to improve himself, so he was terminated.

The representative of the workman argued that the workman was working in the factory for the last two years and they formed the union in the factory as stated by the

workman in his statement as WW-1 and he was elected as vice-president of the union. The statement of the workman was also corroborated by Shri Jagdish Sharma as WW-2. The union formed in the year 1978 and the respondent management annoyed on framing this union in the factory. So on the basis of union activities, the workman was given the warning letters and charge-sheeted and after all this DRAMAS his services were terminated. He further argued that no proper enquiry was held by the respondent against the workman.

After hearing the arguments of both the parties and carefully going through the file. I am of the opinion that when the workman had admitted all the documents filed by the respondent management in the court in respect of the enquiry, then how the representative of the workman can say that the workman was not given the opportunity in the domestic enquiry. The workman has stated nothing in his statement as WW-1 or his witness Shri Jagdish Sharma as WW-2 against the enquiry. The workman has raised no objection on the enquiry proceedings either in the demand notice or in his claim statement and not even in his statement in the Court, even after the workman had given two chances to reduce his evidence on his requests. So the domestic enquiry held against the workman by the respondent was proper and fair. The issue is decided in favour of the respondent management and against the workman.

Issue No. 2 :

Issue No.2 is as per reference ? On this issue the representative of the respondent argued that even after proper and fair enquiry and the workman was found guilty according to the enquiry proceedings, the respondent management took a lenient view and gave another chance to the workman to improve his work. After observing the work of the workman and giving more chances by issuing warning letters, the services of the workman were terminated by the respondent management, which is justified and in order.

The workman representative argued that the workman was terminated only due to the union activities of the workman as he was the Vice-President of the union, which is corroborated by the witness of the workman as WW-2, who has also produced the register of the union in the Court and the orders of the respondent is not justified in terminating the services of the workman for union activities.

After hearing the arguments of both the parties and carefully going through the file I am of view when issue No. 1 has been decided in favour of the respondent even after this enquiry gave the chance to the workman to improve his work and the workman failed to improve the same and even after giving more chances to the workman to explain his position the respondent has taken right step to remove the services of the workman, so the orders of the respondent is justified and in order and the workman is not entitled to any relief. No order as to costs. This be read in answer to this reference.

The 21st November, 1981.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 3310, dated the 27th November, 1981

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.